

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

| | | |
|-------------------------------|---|-----------------------|
| MARJORIE WILLIAMS |) | |
| |) | |
| Plaintiff, |) | |
| vs. |) | Cause #: 4:21-cv-1049 |
| |) | |
| US DEPARTMENT OF HEALTH & |) | |
| HUMAN SERVICES, d/b/a AFFINIA |) | |
| HEALTHCARE |) | |
| |) | |
| Defendants. |) | |
| |) | |
| Serve Affinia Healthcare |) | |
| via Registered Agent |) | |
| |) | |
| Alan Freeman |) | |
| 1717 Biddle Street |) | |
| St Louis MO 63106 |) | |

COMPLAINT FOR DAMAGES

COMES NOW plaintiff, MARJORIE WILLIAMS, by and through her attorneys and for her cause of action against Defendants, AFFINIA HEALTHCARE, CLIFTON WHITWORTH DDS, & REID HIGGINBOTHAM states as follows:

PARTIES – JURISDICTION - VENUE

1. Plaintiff MARJORIE WILLIAMS is a citizen and resident of the State of Missouri.
2. Defendant US DEPARTMENT OF HEALTH & HUMAN SERVICES and AFFINIA HEALTHCARE and the employees/agents listed below are a Federal Government entity and employees/agents protected by the Federal Tort Claims Act and operate a healthcare facility known as St Louis Dental Center located at 1500 Park Avenue in St Louis City, Missouri and at all times acted by and through its agents, servants and employees, including but not limited to CLIFTON WHITWORTH DDS and

REID HIGGINBOTHAM, and currently unidentified other healthcare provider employees, staff and assistants.

3. This court has jurisdiction pursuant to 28 U.S.C 1331.

4. On July 28, 2020, Plaintiff submitted a Claim for Damage pursuant to the Federal Tort Claims Act by submitting form OMB NO 1105-0008 to the US Department of Health and Human Services, including all relevant medical records and supporting documents of the claim. It has been over six (6) months and the US Department of Health and Human Services has not responded to the claim other than to acknowledge receipt of the claim for damages.

5. The negligence and resultant injuries alleged herein occurred at Defendant's facility know as ST LOUIS DENTAL CENTER located at 1500 Park Ave, St Louis City, State of Missouri and the negligent acts complained of herein occurred in St Lousi City, State of Missouri.

FACTS COMMON TO ALL COUNTS

6. That on or about October 11, 2019, Plaintiff presented for dental care at Defendant's facility ST LOUIS DENTAL.

7. Plaintiff complained of pain and was examined and assessed by Defendant's agent/employee HIGGINBOTHAM, a non-licensed healthcare provider, presumably under the authority and supervision of Defendant's agent/employee WHITWORTH.

8. HIGGINBOTHAM examined and diagnosed Plaintiff with pain associated with tooth #32 (Wisdom tooth).

9. HIGGINBOTHAM recommended tooth extraction advising the tooth could not be restored.

10. HIGGINBOTHAM attempted to perform a #32 tooth extraction.

11. HIGGINBOTHAM fractured the crown of the #32 tooth and attempted to remove the tooth roots from the alveolar bone with a surgical hand piece.

12. Defendant WHITWORTH and other agents or employees of Defendant intervened and or assisted sometime during the procedure.

13. Plaintiff complained of severe pain and was advised that was normal and would heal on its own.

14. On or about October 17, 2019 Plaintiff reported back to Defendant's facility complaining of ongoing severe pain in her jaw and was instructed that it was "dry socket" and the extraction site needed to heal.

15. On October 21, 2019 Plaintiff reported to SSM DePaul Hospital emergency room complaining of ongoing pain and was diagnosed with a fractured jaw.

16. On or about November 1, 2019 Plaintiff was diagnosed and treated at Barnes Hospital for surgical repair of a compound fracture of her jaw.

17. Plaintiff has undergone multiple surgical repairs of her jaw and extensive medical treatment.

COUNT I – NEGLIGENCE AGAINST US DEPARTMENT OF HEALTH & HUMAN SERVICES d/b/a/ AFFINIA HEALTHCARE

18. Plaintiff restates paragraphs 1-17 as if fully set forth herein.

19. That defendant by and through its agents, employees, and staff owed a duty to Plaintiff and breached that duty and standard of care and was negligent in its care and treatment of plaintiff in the following respects:

- a. Defendant did not properly assess patient's condition;
- b. Defendant did not perform the appropriate procedure;
- c. Defendant allowed an unqualified individual to perform an extraction;
- d. Defendant performed an improper extraction;
- e. Defendant misdiagnosed Plaintiff's fractured jaw;
- e. Defendant negligently and reckless used excessive force to extract the tooth and its roots;
- f. Defendant negligently allowed an unqualified care provider to perform the tooth extraction;
- g. Defendant negligently supervised an unqualified care provider during the tooth extraction.

20. That as a direct and proximate result of the negligence of defendant as stated above, Plaintiff sustained a compound fracture of her jaw requiring multiple surgeries and extensive follow up care.

21. Plaintiff suffered, suffers and will in the future continues to suffer great physical pain and mental anguish, and that all of plaintiff's injuries are permanent and progressive.

22. That as a direct and proximate result of defendant's negligence as stated above, plaintiff has incurred medical expenses and will incur future medical expenses for medical services required as a result of her injury.

WHEREFORE, Plaintiff prays for judgment against defendant, US DEPARTMENT OF HEALTH & HUMAN SERVICES d/b/a AFFINIA

HEALTHCARE, for a fair and reasonable amount in excess of Twenty-Five Thousand Dollars (\$25,000.00), for costs herein expended, and for such other and further relief that this court deems just and appropriate.

A handwritten signature in black ink, appearing to read "Ben Sansone". The signature is fluid and cursive, with the first name "Ben" and last name "Sansone" clearly distinguishable.

Ben Sansone, #53852
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